

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	5
NO:	3

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 504, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 20-26-5-4, AS ADDED BY HEA 1288-2005,
- 4 SECTION 10, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2005]: Sec. 4. In carrying out the school
- 6 purposes of a school corporation, the governing body acting on the
- 7 school corporation's behalf has the following specific powers:
- 8 (1) In the name of the school corporation, to sue and be sued and
- 9 to enter into contracts in matters permitted by applicable law.
- 10 (2) To take charge of, manage, and conduct the educational affairs
- 11 of the school corporation and to establish, locate, and provide the
- 12 necessary schools, school libraries, other libraries where permitted
- 13 by law, other buildings, facilities, property, and equipment.
- 14 (3) To appropriate from the school corporation's general fund an
- 15 amount, not to exceed the greater of three thousand dollars

1 (\$3,000) per budget year or one dollar (\$1) per pupil, not to
2 exceed twelve thousand five hundred dollars (\$12,500), based on
3 the school corporation's previous year's average daily membership
4 (as defined in IC 21-3-1.6-1.1) to promote the best interests of the
5 school corporation through:

6 (A) the purchase of meals, decorations, memorabilia, or
7 awards;

8 (B) provision for expenses incurred in interviewing job
9 applicants; or

10 (C) developing relations with other governmental units.

11 (4) To:

12 (A) Acquire, construct, erect, maintain, hold, and contract for
13 construction, erection, or maintenance of real estate, real estate
14 improvements, or an interest in real estate or real estate
15 improvements, as the governing body considers necessary for
16 school purposes, including buildings, parts of buildings,
17 additions to buildings, rooms, gymnasiums, auditoriums,
18 playgrounds, playing and athletic fields, facilities for physical
19 training, buildings for administrative, office, warehouse, repair
20 activities, or housing school owned buses, landscaping, walks,
21 drives, parking areas, roadways, easements and facilities for
22 power, sewer, water, roadway, access, storm and surface
23 water, drinking water, gas, electricity, other utilities and
24 similar purposes, by purchase, either outright for cash (or
25 under conditional sales or purchase money contracts providing
26 for a retention of a security interest by the seller until payment
27 is made or by notes where the contract, security retention, or
28 note is permitted by applicable law), by exchange, by gift, by
29 devise, by eminent domain, by lease with or without option to
30 purchase, or by lease under IC 21-5-10, IC 21-5-11, or
31 IC 21-5-12.

32 (B) Repair, remodel, remove, or demolish, or to contract for
33 the repair, remodeling, removal, or demolition of the real
34 estate, real estate improvements, or interest in the real estate or
35 real estate improvements, as the governing body considers
36 necessary for school purposes.

37 (C) Provide for ~~energy~~ conservation measures through utility
38 ~~energy~~ efficiency programs or under a guaranteed ~~energy~~

1 savings contract as described in IC 36-1-12.5.

2 (5) To acquire personal property or an interest in personal
3 property as the governing body considers necessary for school
4 purposes, including buses, motor vehicles, equipment, apparatus,
5 appliances, books, furniture, and supplies, either by cash purchase
6 or under conditional sales or purchase money contracts providing
7 for a security interest by the seller until payment is made or by
8 notes where the contract, security, retention, or note is permitted
9 by applicable law, by gift, by devise, by loan, or by lease with or
10 without option to purchase and to repair, remodel, remove,
11 relocate, and demolish the personal property. All purchases and
12 contracts delineated under the powers given under subdivision (4)
13 and this subdivision are subject solely to applicable law relating
14 to purchases and contracting by municipal corporations in general
15 and to the supervisory control of state agencies as provided in
16 section 6 of this chapter.

17 (6) To sell or exchange real or personal property or interest in real
18 or personal property that, in the opinion of the governing body, is
19 not necessary for school purposes, in accordance with IC 20-26-7,
20 to demolish or otherwise dispose of the property if, in the opinion
21 of the governing body, the property is not necessary for school
22 purposes and is worthless, and to pay the expenses for the
23 demolition or disposition.

24 (7) To lease any school property for a rental that the governing
25 body considers reasonable or to permit the free use of school
26 property for:

27 (A) civic or public purposes; or

28 (B) the operation of a school age child care program for
29 children five (5) years of age through fourteen (14) years of
30 age that operates before or after the school day, or both, and
31 during periods when school is not in session;

32 if the property is not needed for school purposes. Under this
33 subdivision, the governing body may enter into a long term lease
34 with a nonprofit corporation, community service organization, or
35 other governmental entity, if the corporation, organization, or
36 other governmental entity will use the property to be leased for
37 civic or public purposes or for a school age child care program.
38 However, if payment for the property subject to a long term lease

1 is made from money in the school corporation's debt service fund,
 2 all proceeds from the long term lease ~~must be~~ **are** deposited in the
 3 school corporation's debt service fund so long as payment for the
 4 property has not been made. The governing body may, at the
 5 governing body's option, use the procedure specified in
 6 IC 36-1-11-10 in leasing property under this subdivision.

7 (8) To:

8 (A) Employ, contract for, and discharge superintendents,
 9 supervisors, principals, teachers, librarians, athletic coaches
 10 (whether or not they are otherwise employed by the school
 11 corporation and whether or not they are licensed under
 12 IC 20-28-5), business managers, superintendents of buildings
 13 and grounds, janitors, engineers, architects, physicians,
 14 dentists, nurses, accountants, teacher aides performing
 15 noninstructional duties, educational and other professional
 16 consultants, data processing and computer service for school
 17 purposes, including the making of schedules, the keeping and
 18 analyzing of grades and other student data, the keeping and
 19 preparing of warrants, payroll, and similar data where
 20 approved by the state board of accounts as provided below,
 21 and other personnel or services as the governing body
 22 considers necessary for school purposes.

23 (B) Fix and pay the salaries and compensation of persons and
 24 services described in this subdivision.

25 (C) Classify persons or services described in this subdivision
 26 and to adopt schedules of salaries or compensation.

27 (D) Determine the number of the persons or the amount of the
 28 services employed or contracted for as provided in this
 29 subdivision.

30 (E) Determine the nature and extent of the duties of the
 31 persons.

32 The compensation, terms of employment, and discharge of
 33 teachers are, however, subject to and governed by the laws
 34 relating to employment, contracting, compensation, and discharge
 35 of teachers. The compensation, terms of employment, and
 36 discharge of bus drivers ~~is~~ **are** subject to and governed by laws
 37 relating to employment, contracting, compensation, and discharge
 38 of bus drivers. The forms and procedures relating to the use of

1 computer and data processing equipment in handling the financial
2 affairs of the school corporation must be submitted to the state
3 board of accounts for approval to the end that the services are
4 used by the school corporation when the governing body
5 determines that it is in the best interest of the school corporation
6 while at the same time providing reasonable accountability for the
7 funds expended.

8 (9) Notwithstanding the appropriation limitation in subdivision
9 (3), when the governing body by resolution considers a trip by an
10 employee of the school corporation or by a member of the
11 governing body to be in the interest of the school corporation,
12 including attending meetings, conferences, or examining
13 equipment, buildings, and installation in other areas, to permit the
14 employee to be absent in connection with the trip without any loss
15 in pay and to refund to the employee or to the member the
16 employee's or member's reasonable hotel and board bills and
17 necessary transportation expenses. To pay teaching personnel for
18 time spent in sponsoring and working with school related trips or
19 activities.

20 (10) To transport children to and from school, when in the opinion
21 of the governing body the transportation is necessary, including
22 considerations for the safety of the children and without regard to
23 the distance the children live from the school, the transportation
24 to be otherwise in accordance with applicable law.

25 (11) To provide a lunch program for a part or all of the students
26 attending the schools of the school corporation, including the
27 establishment of kitchens, kitchen facilities, kitchen equipment,
28 lunch rooms, the hiring of the necessary personnel to operate the
29 lunch program, and the purchase of material and supplies for the
30 lunch program, charging students for the operational costs of the
31 lunch program, fixing the price per meal or per food item. To
32 operate the lunch program as an extracurricular activity, subject
33 to the supervision of the governing body. To participate in a
34 surplus commodity or lunch aid program.

35 (12) To purchase textbooks, to furnish textbooks without cost or
36 to rent textbooks to students, to participate in a textbook aid
37 program, all in accordance with applicable law.

38 (13) To accept students transferred from other school corporations

1 and to transfer students to other school corporations in accordance
2 with applicable law.

3 (14) To levy taxes, to make budgets, to appropriate funds, and to
4 disburse the money of the school corporation in accordance with
5 applicable law. To borrow money against current tax collections
6 and otherwise to borrow money, in accordance with IC 21-2-21.

7 (15) To purchase insurance or to establish and maintain a program
8 of self-insurance relating to the liability of the school corporation
9 or the school corporation's employees in connection with motor
10 vehicles or property and for additional coverage to the extent
11 permitted and in accordance with IC 34-13-3-20. To purchase
12 additional insurance or to establish and maintain a program of
13 self-insurance protecting the school corporation and members of
14 the governing body, employees, contractors, or agents of the
15 school corporation from liability, risk, accident, or loss related to
16 school property, school contract, school or school related activity,
17 including the purchase of insurance or the establishment and
18 maintenance of a self-insurance program protecting persons
19 described in this subdivision against false imprisonment, false
20 arrest, libel, or slander for acts committed in the course of the
21 persons' employment, protecting the school corporation for fire
22 and extended coverage and other casualty risks to the extent of
23 replacement cost, loss of use, and other insurable risks relating to
24 property owned, leased, or held by the school corporation. To:

25 (A) participate in a state employee health plan under
26 IC 5-10-8-6.6;

27 (B) purchase insurance; or

28 (C) establish and maintain a program of self-insurance;

29 to benefit school corporation employees, including accident,
30 sickness, health, or dental coverage, provided that a plan of
31 self-insurance must include an aggregate stop-loss provision.

32 (16) To make all applications, to enter into all contracts, and to
33 sign all documents necessary for the receipt of aid, money, or
34 property from the state government, the federal government, or
35 from any other source.

36 (17) To defend any member of the governing body or any
37 employee of the school corporation in any suit arising out of the
38 performance of the member's or employee's duties for or

employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body, which rules, regulations, and procedures may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 or any other law.

(20) To exercise any other power and make any expenditure in carrying out the governing body's general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 21-2-19, and IC 21-2-21 by specific language or by reference to other law."

Page 2, line 3, strike "energy".

Page 2, line 4, strike "energy".

Page 2, after line 12, begin a new paragraph and insert:

"SECTION 3. IC 36-1-12.5-0.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 0.7. As used in this chapter, "causally connected work" means work that is required to properly implement ~~an energy~~ a conservation measure.

SECTION 4. IC 36-1-12.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter "~~energy~~ "conservation measure":

(1) means:

(A) a school facility alteration; ~~or~~

(B) an alteration of a structure (as defined in IC 36-1-10-2 **or as referred to in IC 36-1-12-2) or system; or**

(C) **a technology upgrade;**

designed to **provide billable revenue increases or** reduce energy **or water** consumption costs, **wastewater costs**, or other operating costs; ~~including and~~

(2) **includes** the following:

~~(1)~~ (A) Providing insulation of the school facility or structure and systems ~~within in~~ the school facility or structure.

~~(2)~~ (B) Installing or providing for window and door systems, including:

~~(A)~~ (i) storm windows and storm doors;

~~(B)~~ (ii) caulking or weatherstripping;

~~(C)~~ (iii) multi-glazed windows and doors;

~~(D)~~ (iv) heat absorbing or heat reflective glazed and coated windows and doors;

~~(E)~~ (v) additional glazing;

~~(F)~~ (vi) the reduction in glass area; and

~~(G)~~ (vii) other modifications that reduce energy consumption.

~~(3)~~ (C) Installing automatic energy control systems.

~~(4)~~ (D) Modifying or replacing heating, ventilating, or air conditioning systems.

~~(5)~~ (E) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility or structure.

~~(F)~~ (F) Providing for other ~~energy~~ conservation measures that provide billable revenue increases or reduce energy or water consumption, or reduce operating costs, or reduce wastewater costs, including future:

~~(A)~~ (i) labor costs;

~~(B)~~ (ii) costs or revenues for contracted services; and

~~(C)~~ (iii) related capital expenditures.

(G) Installing an energy recovery system.

(H) Installing cogeneration systems that produce:

(i) steam; or

(ii) forms of energy such as heat or electricity;

for use primarily in a building or complex of buildings.

(I) Installing water and sewer conservation measures, including:

(i) plumbing fixtures; and

(ii) infrastructure.

(J) Installing equipment upgrades that improve accuracy of billable revenue generating systems.

(K) Installing automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.

SECTION 5. IC 36-1-12.5-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter, "governing body" means the following:

(1) With respect to school corporations, the governing body (as defined in IC 20-10.1-1-5).

(2) With respect to a public library, the library board (as defined in IC 20-14-1-2).

(3) With respect to a library described in IC 20-14-7-6, the trustees of the library.

(4) With respect to other political subdivisions, units, the legislative body (as defined in IC 36-1-2-9).

(5) With respect to other political subdivisions, the board or officer that has the power to award contracts.

SECTION 6. IC 36-1-12.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this chapter, "guaranteed ~~energy~~ savings contract" refers to a contract entered into under this chapter, in which a qualified provider enters into an agreement with the governing body to:

(1) evaluate and recommend to the governing ~~body~~ **energy body's** conservation measures; and

(2) provide for the implementation of at least one (1) ~~energy~~ conservation measure.

SECTION 7. IC 36-1-12.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As used in this chapter, "qualified provider" means the following:

(1) Before July 1, 1999, the term means a person that satisfies both of the following:

(A) The person is experienced in the design, implementation, and installation of energy conservation measures.

(B) The person submits to the school corporation or political subdivision a performance bond to ensure the qualified provider's faithful performance of the qualified provider's obligations over the term of the guaranteed energy savings contract.

(2) After June 30, 1999, the term means a person that satisfies all of the following:

(A) **Subject to subdivision (3)**, the person is experienced in the design, implementation, and installation of energy conservation measures.

(B) The person is certified and meets the requirements of IC 4-13.6-4. The person's response to the request for proposals must include a copy of the person's certificate of qualification issued under IC 4-13.6-4.

(C) **Subject to subdivision (3)**, the person provides energy conservation engineering services by a professional engineer licensed under IC 25-31 who is under the person's direct employment and supervision. The person's response to the request for proposals must include the license number of each professional engineer employed by the person to satisfy the requirement of this clause.

(D) The person provides:

- (i) monitoring for the facility performance guarantee; and
- (ii) service personnel under the person's direct employment and supervision;

for the duration of the contract's guarantee.

(E) The person performs at least twenty percent (20%) of the

1 work (measured in dollars of the total contract price) with its
2 own workforce.

3 (F) The person submits to the school corporation or political
4 subdivision a performance bond to ensure the qualified
5 provider's faithful performance of the qualified provider's
6 obligations over the term of:

7 (i) the guaranteed energy savings contract; or

8 (ii) the guaranteed savings contract.

9 **(3) With respect to conservation measures for which a**
10 **contract is executed after June 30, 2005, the term includes a**
11 **person that satisfies the following:**

12 **(A) The person is experienced in the design,**
13 **implementation, and installation of conservation measures.**

14 **(B) The person provides engineering services with respect**
15 **to conservation measures by a professional engineer**
16 **licensed under IC 25-31 who is under the person's direct**
17 **employment and supervision. The person's response to the**
18 **request for proposals must include the license number of**
19 **each professional engineer employed by the person to**
20 **satisfy the requirement of this clause.**

21 (b) For purposes of a guaranteed energy savings contract entered
22 into before July 1, 1999, a person who was a qualified provider under
23 subsection (a)(1) at the time the contract was entered into remains a
24 qualified provider for that contract after June 30, 1999. If the person
25 enters into:

26 **(1) a guaranteed energy savings contract after June 30, 1999, and**
27 **before July 1, 2005, the person must satisfy the requirements of**
28 **subsection (a)(2); or**

29 **(2) a guaranteed savings contract after June 30, 2005, the**
30 **person must satisfy the requirements of subsections (a)(2) and**
31 **(a)(3);**

32 to be considered a qualified provider.

33 SECTION 8. IC 36-1-12.5-3.5 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. As used in this
35 chapter, "related capital expenditures" includes capital costs that:

36 (1) the governing body reasonably believes will be incurred
37 during the contract term;

38 (2) are part of or are causally connected to the ~~energy~~

conservation measures being implemented; and

(3) are documented by industry engineering standards.

SECTION 9. IC 36-1-12.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. As used in this chapter, "utility ~~energy~~ efficiency program" refers to an energy, **a water, or a wastewater** efficiency program that:

(1) includes ~~an energy~~ a conservation measure;

(2) is established by a public utility (as defined in IC 8-1-8.7-2);

and

(3) is undertaken pursuant to this chapter.

SECTION 10. IC 36-1-12.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The governing body may enter into an agreement with a public utility to participate in a utility ~~energy~~ efficiency program or enter into a guaranteed ~~energy~~ savings contract with a qualified provider to **increase the political subdivision's billable revenues or** reduce the school corporation's or the political subdivision's energy **or water** consumption, **wastewater usage** costs, or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds:

(1) that the amount the governing body would spend on the ~~energy~~ conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of **increased billable revenues or the amount** to be saved in energy **and water** consumption costs, **wastewater usage costs**, and other operating costs over ten (10) years from the date of installation if the recommendations in the report were followed; and

(2) in the case of a guaranteed ~~energy~~ savings contract, the qualified provider provides a written guarantee as described in subsection (d)(2).

(b) Before entering into an agreement to participate in a utility ~~energy~~ efficiency program or a guaranteed ~~energy~~ savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose ~~energy~~ conservation measures through: ~~either~~

(A) a utility ~~energy~~ efficiency program; or

(B) a guaranteed ~~energy~~ savings contract; and

- 1 (2) the date, the time, and the place where proposals must be
 2 received.
- 3 (c) The notice required by subsection (b) must:
- 4 (1) be published in two (2) newspapers of general circulation in
 5 the county where the school corporation or the political
 6 subdivision is located;
- 7 (2) be published two (2) times with at least one (1) week between
 8 publications and with the second publication made at least thirty
 9 (30) days before the date by which proposals must be received;
 10 and
- 11 (3) meet the requirements of IC 5-3-1-1.
- 12 (d) An agreement to participate in a utility ~~energy~~ efficiency
 13 program or guaranteed ~~energy~~ savings contract under this section must
 14 provide that:
- 15 (1) all payments, except obligations upon the termination of the
 16 agreement or contract before the agreement or contract expires,
 17 may be made to the public utility or qualified provider (whichever
 18 applies) in installments, not to exceed the lesser of ten (10) years
 19 or the average life of the ~~energy~~ conservation measures installed
 20 from the date of final installation; ~~and~~
- 21 (2) in the case of the guaranteed ~~energy~~ savings contract:
- 22 (A) the:
- 23 (i) savings in energy **and water consumption costs,**
 24 **wastewater usage costs, and other** operating costs; **and**
 25 (ii) **increase in billable revenues;**
- 26 due to the ~~energy~~ conservation measures are guaranteed to
 27 cover the costs of the payments for the measures; and
- 28 (B) the qualified provider will reimburse the school
 29 corporation or political subdivision for the difference between
 30 the guaranteed savings and the actual savings; and
- 31 (3) payments are subject to annual appropriation by the fiscal
 32 body of the school corporation or political subdivision and do not
 33 constitute an indebtedness of the school corporation or political
 34 subdivision within the meaning of a constitutional or statutory
 35 debt limitation.
- 36 (e) An agreement or a contract under this chapter is subject to
 37 IC 5-16-7.
- 38 SECTION 11. IC 36-1-12.5-5.3 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.3. (a) This section
 2 applies only to a guaranteed energy savings contract **or a guaranteed**
 3 **savings contract** entered into after June 30, 1999.

4 (b) A qualified provider may enter into a subcontract:

5 (1) with a value of more than one hundred fifty thousand dollars
 6 (\$150,000); and

7 (2) for the performance of any part of a guaranteed energy savings
 8 contract **or guaranteed savings contract;**

9 only if the subcontractor is certified under IC 4-13.6-4.

10 SECTION 12. IC 36-1-12.5-5.5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. IC 6-1.1-20 does
 12 not apply to an agreement to participate in:

13 (1) a utility ~~energy~~ efficiency program; or

14 (2) **a** guaranteed ~~energy~~ savings contract;

15 entered into under this chapter.

16 SECTION 13. IC 36-1-12.5-6 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before the public
 18 utility or the qualified provider may install equipment in, make
 19 modifications to, or remodel a building or complex of buildings under
 20 a utility ~~energy~~ efficiency program or a guaranteed ~~energy~~ savings
 21 contract, the public utility or the qualified provider (whichever applies)
 22 must issue a report that includes estimates for the following:

23 (1) All costs attributable to the work stipulated in the agreement
 24 or the contract, including the costs of design, engineering,
 25 installation, maintenance, repairs, or debt service.

26 (2) The amounts by which:

27 (A) energy **or water** consumption;

28 (B) **wastewater costs;** or

29 (C) operating costs;

30 will be reduced.

31 (3) **The amounts by which billable revenues will be increased.**

32 (b) The report must also contain a listing of contractors and
 33 subcontractors to be used by the public utility or the qualified provider
 34 with respect to the ~~energy~~ conservation measures.

35 SECTION 14. IC 36-1-12.5-7 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. If the governing
 37 body enters into an installment payment contract for the purchase and
 38 installation of ~~energy~~ conservation measures under this chapter, the

balance of the payments must be paid in installments not to exceed the lesser of ten (10) years or the average life of the ~~energy~~ conservation measure installed from the date of final installation. Payments under an installment payment contract are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation. **Annual revenues or savings from a guaranteed savings contract may be less than annual payments on the contract if during the length of the contract total savings and increased billable revenues occur as provided for by the contract. The financing of a guaranteed savings contract may be provided by:**

(1) the vendor of the guaranteed energy, water, or wastewater savings program; or

(2) a third-party financial institution or company.

SECTION 15. IC 36-1-12.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~Energy~~ Conservation measures installed under a utility ~~energy~~ efficiency program or a guaranteed ~~energy~~ savings contract must be approved by the following:

(1) The state department of health, office of the state fire marshal, office of the state building commissioner, and any other state agency designated by statute.

(2) An architect or engineer licensed under IC 25-4 or IC 25-31 if the ~~energy~~ conservation measures have a cost of more than fifty thousand dollars (\$50,000).

SECTION 16. IC 36-1-12.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The contractor and each subcontractor engaged in installing ~~energy~~ conservation measures under a guaranteed ~~energy~~ savings contract shall keep full and accurate records indicating the names, classifications, and work performed by each worker employed by the respective contractor and subcontractor in connection with the work, together with an accurate record of the number of hours worked by each worker and the actual wages paid.

(b) The payroll records required to be kept under this section must be open to inspection by an authorized representative of the governing body or the department of labor.

SECTION 17. IC 36-1-12.5-10 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The governing
2 body shall:

3 (1) provide to the department of commerce not more than sixty
4 (60) days after the date of execution of the guaranteed ~~energy~~
5 savings contract:

6 (A) a copy of the executed guaranteed ~~energy~~ savings contract;

7 (B) the:

8 (i) energy **or water** consumption costs;

9 (ii) **wastewater usage costs; and**

10 (iii) **billable revenues, if any;**

11 before the date of execution of the guaranteed ~~energy~~ savings
12 contract; and

13 (C) the documentation using industry engineering standards
14 for:

15 (i) stipulated savings; and

16 (ii) related capital expenditures; and

17 (2) annually report to the department of commerce, in accordance
18 with procedures established by the department of commerce, the
19 savings resulting in the previous year from the guaranteed ~~energy~~
20 savings contract or utility ~~energy~~ efficiency program.

21 SECTION 18. IC 36-1-12.5-11 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A guaranteed
23 ~~energy~~ savings contract that includes stipulated savings must specify
24 the methodology used to calculate the savings using industry
25 engineering standards.

26 (b) Stipulated savings may be used for ~~energy~~ conservation
27 measures including the following:

28 (1) Heating.

29 (2) Air conditioning.

30 (3) Ventilating.

31 (4) Lighting.

32 (5) Roofing.

33 (6) Windows.

34 (7) Water conservation.

35 (8) Fuel and power improvements.

36 **(9) Wastewater generation.**

37 **(10) Billable revenue increases.**

38 ~~(9)~~ **(11)** Any work that is causally connected to the ~~energy~~

conservation measures listed in subdivisions (1) through ~~(8)~~ **(10)**.

(c) The guaranteed ~~energy~~ savings contract shall:

(1) describe stipulated savings for:

(A) ~~energy~~ conservation measures; and

(B) work causally connected to the ~~energy~~ conservation measures; and

(2) document assumptions by industry engineering standards.

SECTION 19. IC 36-1-12.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) An improvement that is not causally connected to ~~an energy~~ a conservation measure may be included in a guaranteed ~~energy~~ savings contract if:

(1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed ~~energy~~ savings contract; and

(2) either:

(A) the improvement is necessary to conform to a law, a rule, or an ordinance; or

(B) an analysis within the guaranteed ~~energy~~ savings contract demonstrates that:

(i) there is an economic advantage to the political subdivision in implementing an improvement as part of the guaranteed ~~energy~~ savings contract; and

(ii) the savings justification for the improvement is documented by industry engineering standards.

- 1 (b) The information required under subsection (a) must be reported
- 2 to the department of commerce.".
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 504 as printed February 25, 2005.)

and when so amended that said bill do pass.

Representative Behning